

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/488,164	06/07/95	KOPCHICK	J 7707-015

001444 HM12/1003  
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WASHINGTON DC 20001-5303

EXAMINER	
SAOUD, C	
ART UNIT	PAPER NUMBER
1647	30

DATE MAILED: 10/03/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**



UNITED STATES DEPARTMENT OF COMMERCE  
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Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

The reply filed on 21 June 2001 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): Applicant did not appear to provide the election of invention of DNA encoding growth hormone for examination. Applicant's statements of alternative elections are confusing, as well as the statement that an election of "B2036" is desired, but "[i]f there is a reason of law that we cannot elect this species, which is not explicitly set forth, in our specification, we elect hGH(G120K) instead". Without examining the instant application, the Examiner cannot make a determination of whether there is a "reason of law" which would prohibit this election.

Applicant is encouraged to use the following format for making a clear, concise election of the invention to be examined.

"Applicant hereby elects Group X, with/without traverse...", wherein Applicant chooses a single inventive Group for examination with an indication of whether a traversal is being made. Such a traversal is not "conditional". Either Applicant traverses the election, or Applicant does not traverse the election. Reasons for such a traversal should follow (i.e. reasons why the restriction is improper or not supported by undue burden).

Arguments regarding rejoinder of groups (MPEP 821.04) is not timely, as no indication of allowable product claims has been made. Additionally, it is the Examiner's responsibility to rejoin process claims which depend from an allowable product claim, therefore, arguments regarding rejoinder appear to be unnecessary.

With regard to Applicant's characterization of the restriction as a "species restriction", Applicant should note that this is an election of invention, not a species election. Applicant has failed to elect a single invention (i.e. DNA) having a specific molecular structure, which was required in paper #28, page 3, final paragraph, for the reasons provided above. Applicant is again encouraged to follow the above format for making the election, without the confusing language of alternative elections. Applicant should read "specific molecular structure" as being a DNA with a defined nucleotide sequence.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine Saoud, Ph.D., whose telephone number is (703) 305-7519. The examiner can normally be reached on Monday to Friday from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Hutzell, can be reached on (703) 308-4310. The fax phone number for this Group is (703) 308-0294.

Official papers filed by fax should be directed to (703) 308-4227. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

October 1, 2001

*CHRISTINE J. SAoud*  
PRIMARY EXAMINER

CHRISTINE J. SAoud  
PRIMARY EXAMINER  
*Christine J. Saoud*